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DOCKET NO.: BMS-0826(DM-6864-F)

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED  
FEB 27 2003  
OFFICE OF PETITIONS

In Re Application of:

Liqi He; Paul Gilligan; Robert Chorvat  
and Argyios Arvanitis

Confirmation No.: 3307

Serial No.: 09/930,782

Group Art Unit: 1624

Filed: August 16, 2001

Examiner: Truong, Tamthom Ngo

For: Azolo Triazines and Pyrimidines

DATE OF DEPOSIT:

2/21/03

I HEREBY CERTIFY THAT THIS PAPER IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE AS FIRST CLASS MAIL, POSTAGE PREPAID, ON THE DATE INDICATED ABOVE AND IS ADDRESSED TO THE COMMISSIONER OF PATENTS AND TRADEMARKS, WASHINGTON, DC 20231.

*S. Maurice Valla*  
TYPED NAME: S. Maurice Valla  
REGISTRATION NO.: 43,966

215.564-8392

Attention: Office of Petitions, Mr. John Gillon  
Box DAC  
Assistant Commissioner for Patents  
Washington, DC 20231

PETITION TO ESTABLISH PRIOR RECEIPT IN THE P.T.O. OF ITEM(S)  
CONSIDERED AS OMITTED BY THE P.T.O.  
37 C.F.R. § 1.53 (e)(2)

and PETITION TO EXPUNGE INFORMATION OR COPY OF PAPERS IN  
APPLICATION FILE  
37 C.F.R. § 1.59(b)

1. This is in response to the

- ☒ "NOTICE OF OMITTED ITEMS"
- ☐ "NOTICE OF INCOMPLETE APPLICATION"

mailed for this application on September 17, 2001.

02/25/2003 SLURG1 00000028 09930782 130.00 OP

01 FC:1460

02/25/2003 SLURG1 00000028 09930782 -410.00 OP

02 FC:1252

02/25/2003 SLURG1 00000028 09930782 -160.00 OP

03 FC:1466

Repln. Ref: 02/25/2003 SLURG1 0012442600

DAH:233050 Name/Number:09930782 \$30.00 CR

FC: 9204

- ☒ A copy of the
- ☒ "NOTICE OF OMITTED ITEMS"
- ☐ "NOTICE OF INCOMPLETE APPLICATION"

is enclosed.

2. Applicants assert that the attached Utility Patent Application Transmittal (PTO/SB/05 (03-01) for the instant application states that the application is a divisional of U.S. Application Serial No. 09/014,734, and that "The entire disclosure of the prior application, for which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying or divisional application and is hereby incorporated by reference. This reference can only be relied upon when a portion has been inadvertently omitted from the submitted application parts." Applicants respectfully submit that since the parent application was incorporated by reference in its entirety, page 107 of the instant application, that was reported to be missing from the application, was actually a part of the application as filed.
3. In accordance with the requirements of the Notice of September 17, 2001, 61 Fed. Reg. 30,041-30,046, ( see MPEP, § 601.01(d), 7th Edition) applicants hereby:
  - A. Petition under 37 § 1.53(e) for a review of the determination that the items in issue were omitted;
  - B. Submits the petition fee under 37 § 1.17(i) and
  - C. Submits the attached copy of the parent application and the Application Transmittal Sheet of this application as evidence of the deposit of the items in issue.
4. Applicants also Petition Under 37 C.F.R. §1.59(b) to have the Declaration of Kalim S. Fazil Under 37 C.F.R. §§1.63 and 1.64 submitted on November 16, 2001, in response to the Notice of Omitted Items, expunged from the instant application. Applicants believe this response was submitted in error. Applicants further note that the response was in improper format, and therefore ineffective. Accordingly, its continued presence in the file can only serve as a point of confusion.
5. Applicants further submit a Reply Pursuant to 37 CFR §1.111 in response to the Official Action dated September 23, 2002, together with a petition and fee for a two month extension of time.
6. Applicants further submit an executed Associate Power of Attorney, executed by Jing S. Belfield who is on the originally executed Declaration submitted August 16, 2001.
7. Applicants further submit a Communication and copies of references listed in the IDS submitted on August 16, 2001, that the Examiner indicated could not be found in the file of parent application Serial No. 09/014,734.
8. Applicants further submit a Supplemental Information Disclosure Statement with 1 attached reference.

Fee

## 9. Payment

- ☒ A check in the amount of **\$750.00** (\$130.00 Petition Fee, \$410.00 Extension of Time and \$180.00 Supplemental IDS Fee) is attached. Please charge any deficiency or credit any overpayment to Deposit Account No. 23-3050.
- ☐ Please charge Deposit Account No. 23-3050 the amount of \_\_\_\_\_. This sheet is attached in duplicate.
- ☒ The Commission is hereby authorized to charge payment of the above fees associated with this communication or credit any overpayment to Deposit Account No. 23-3050. This sheet is attached in duplicate.

A duplicate of this paper is attached.

## 10. Request for Refund For Petition Fee Under 37 CFR § 1.53(e)

It is respectfully requested that, upon grant of the petition under 37 § 1.53(e), the petition fee be refunded by crediting Deposit Account No. 23-3050.

## 11. Provisional Request for Filing Date As of This Date of Submission of Omitted Items In Issue—Provisional Petition under 37 § 1.182.

In the event that the Petition to Establish Prior Receipt in the P.T.O. of Omitted Items In Issue does not result in a decision by the P.T.O. that the omitted items in issue were indeed received by the P.T.O. on the original filing date for this application, applicant hereby:

- (a) submits the omitted item(s) listed on the
- ☐ "NOTICE OF OMITTED ITEMS"
- ☐ "NOTICE OF INCOMPLETE APPLICATION"
- (b) submits a declaration in compliance with 37 § 1.63 and 1.64 referring to such omitted item(s)
- (c) petitions under 37 § 1.182 to accept the date of this submission as the application filing date; and
- (d) submits the petition fee under 37 § 1.17(h).

## 12. Petition Fee for Provisional Petition under 37 § 1.182

The fee under 37 § 1.17(h) is paid as follows:

- ☐ Attached is a check in the amount of \_\_\_\_\_.

☐ Authorization is hereby made to charge the amount of \$130.00 to Deposit Account No. 23-3050

☐ Charge any additional fees required by this filing or credit any overpayment in the manner authorized above.

A duplicate of this paper is attached.

13. Request for Refund of Provisional Petition Fee under 37 § 1.182

Upon grant of the petition under 37 § 1.53(e) and the determination by the P.T.O. that the omitted items in issue were filed with the original papers filed for this application, applicant respectfully requests that the petition fee under 37 § 1.182 be refunded by crediting Deposit Account No. 23-3050

Date:

2/21/03



S. Maurice Valla  
Registration No. 43,966

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☐ Plus EVIDENCE OF DEPOSIT OF ITEM(S) WITH APPLICATION INDICATED AS OMITTED IN THE "NOTICE OF OMITTED ITEMS."